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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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CELESTE J. MATTINA, Regional Director,
Region 2, National Labor Relations
Board, for and on Behalf of the
NATIONAL LABOR RELATIONS BOARD,

Petitioner,

-v-

KINGSBRIDGE HEIGHTS REHABILITATION AND
CARE CENTER,

Respondent.
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08 Civ. 6550 (DLC)

ORDER MODIFYING
INJUNCTION UNDER
SECTION 10(j) OF
THE NATIONAL LABOR
RELATIONS ACT

DENISE COTE, District Judge:

For the reasons stated on the record at a telephone
conference held with the parties on August 18, 2008, it is
hereby

ORDERED that, upon consent of the parties, paragraph (m) of
the August 14, 2008 Order Granting Injunction Under Section
10(j) of the National Labor Relations Act is modified to read as
follows:

(m) Treat the striking bargaining unit employees as unfair
labor practice strikers and, upon their unconditional offer
to return to work, reinstate them to their former
positions, without prejudice to their seniority or other
rights and privileges previously enjoyed, displacing, if
necessary, any employees hired, transferred, reassigned or
obtained, leased, or contracted for through an outside
agency to replace them;

Provided, however, that the Respondent shall not be
required to reinstate the individuals -- not to exceed
six (6) in number -- identified by Respondent on August
19, 2008, by 5:00 p.m. as having allegedly engaged in

serious strike misconduct, unless and until it is determined at a hearing before this Court, or its designee, according to the procedure set forth below, that such individuals shall be reinstated. The following schedule shall apply to the hearing conducted under this provision:

(1) Before 5:00 p.m. on Friday, August 15, 2008, Respondent and Petitioner shall submit a joint statement of the standard of law to be applied to the hearing conducted pursuant to this provision. Failing agreement on the applicable standard of law, the parties shall submit separate statements of the standard of law to be applied to such hearing by 5:00 on August 15, 2008;

(2) By 5:00 p.m. on August 22, 2008, Respondent shall provide Petitioner, the Union, and the accused individuals identified on August 19 with a notice setting forth each and every allegation of strike misconduct engaged in by those individuals, together with the dates, times, locations, and descriptions of the alleged misconduct, and a list of any witnesses and/or documentary evidence that supports each allegation;

(3) By noon on August 28, 2008, the Respondent and Petitioner shall submit any legal authority they wish the Court to consider in determining whether the allegations specified on August 22, 2008, are sufficient, as a matter of law, to bar reinstatement pursuant to this Order;

(4) The hearing shall commence at 9:30 a.m. on Wednesday, September 3, 2008 and shall continue as necessary on September 8, 2008, and thereafter until concluded; and

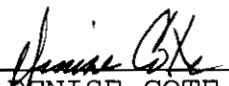
(5) Respondent shall bear the burden of proof on striker misconduct.

On or before August 22, 2008, at 5:00 p.m., Respondent may also identify other individuals -- in addition to individuals identified on August 19 -- it contends have engaged in strike misconduct sufficient to deprive them of the right to be reinstated pursuant to this Order. At that time, the Respondent shall provide Petitioner, the Union, and these accused individuals with a notice setting forth each and every allegation of strike misconduct engaged in by these individuals, together with the dates, times, locations, and descriptions of the alleged misconduct, and

a list of any witnesses and/or documentary evidence that supports each allegation. However, such individuals shall be reinstated in accordance with this Order and shall not be terminated for reasons related to alleged strike misconduct unless and until it is determined, in a forum to be agreed upon by the parties on or before August 28, 2008, that such individuals are not entitled to reinstatement pursuant to this Order.

SO ORDERED:

Dated: New York, New York
August 18, 2008



DENISE COTE
United States District Judge